

**REMARKS**

Reconsideration of this application, as amended, is respectfully requested. The following remarks are responsive to the Office Action mailed June 14, 2005.

**Double Patenting**

Claims 1-30 are provisionally rejected under 35 U.S.C. §101 as claiming the same invention as claims 1-30 of Application No. 10/425,279. Application No. 10/425,279 was expressly abandoned on October 12, 2005, and Applicant respectfully submits that the rejection is now moot.

**35 U.S.C. 102 Rejections**

Claims 1-4, 8, 16, 17, 24, 25 and 27-29 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,137,939 (hereafter "Henry"). Particularly, the Office Action alleges that Henry teaches each limitation of independent claims 1, 8, 16, and 24. Applicant had previously amended the claims in a manner that was more than necessary to overcome the rejection. However, because the Office Action states that the claims still recited the same structure (not necessarily the same function) as Henry, Applicant presently amends the claims to further describe the structure of one embodiment of the invention. In particular, Claims 1, 8, 16, and 24 have been amended to recite a structure of the wave guide, in which the first and second materials (e.g., polymer and cladding) having differing variances in refractive indices do not exist within the wave guide core.

Henry, on the other hand, teaches an elastomeric material that has replaced a portion of the wave guide core (col. 6, Ins. 55-57, Figure 1b) and an effective refraction index that is dependent upon the length of the elastomeric material section that replaced the corresponding wave guide core section (col. 7, Ins. 30-40, Figure 1b). Therefore, Henry does not anticipate presently amended claims 1, 8, 16, and 24.

Accordingly, Applicant respectfully submits that claims 1, 8, 16, and 24, as well as all dependent claims, are presently in condition for allowance.

#### 35 U.S.C. 103 Rejections

Claims 5, 6, 2-15, 18-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Henry. However, in view of the above amendments and discussion pertaining to claims 1, 8, 16, and 24, from which claims 5, 6, 2-15, 18-21 depend, Applicant respectfully submits that the rejection has been overcome.

Accordingly, it is respectfully asserted by Applicant that claims 5, 6, 2-15, 18-21 are in condition for allowance.

Claims 7, 9-11 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry in view of Deacon (U.S. patent 6,243,517). However, in view of the above amendments and discussion pertaining to claims 1, 8, 16, and 24, from which claims 7, 9-11 and 26 depend, Applicant respectfully submits that the rejection has been overcome.

Accordingly, it is respectfully asserted by Applicant that claims 7, 9-11 and 26 are in condition for allowance.


If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Erik Metzger, attorney for Applicant, at (512) 732-3922.

If there are additional fees due, please charge them to our Deposit Account No. 02-2666.

Respectfully submitted,

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